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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,831	05/23/2001	Suresh V. Garimella	PU62	8979

7590

10/08/2002

Mr. Edward J. Timmer
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EXAMINER

MEDLEY, PETER M

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 10/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,831

Applicant(s)

GARIMELLA ET AL.

Examiner

Peter M Medley

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,10-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8,10-17 and 19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-9, and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Toki.

With respect to claims 1-3, the reference discloses a device in **figs. 3(a) and 3(b)** comprising a housing **1**, apertures **3** and **4**, a piezoelectric bimorph actuator **7**.

With respect to claim 4, 5, and 9, the reference discloses in **fig. 6(a)** electrodes, interface **15**, and a source.

With respect to claim 7, the reference discloses a free end **6**.

With respect to claim 8, the reference discloses in **fig. 1(a)** a blade fixed on both ends.

With respect to claims 14-18, the method claims are inherent from the structure.

1. Claims 6, 11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakamura et al.

The reference discloses in **fig. 2** a device comprising housing **12**, apertures **30a**, **b**, a bimorph disc **18a**, and source **50**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toki.

The reference discloses a device in **figs. 3(a) and 3(b)** comprising a housing **1**, apertures **3** and **4**, a piezoelectric bimorph actuator **7**.

The reference does not disclose the exact dimensions.

The Examiner takes Official Notice that it would have been well known in the art the shape of apertures affects airflow. The court has stated that where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation. *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). It would have been obvious to one of ordinary skill in the art to adjust the width and diameter of the apertures for the purpose of affecting the airflow.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al.

The reference discloses in **fig. 2** a device comprising housing **12**, apertures **30a, b**, a bimorph disc **18a**, and source **50**.

The reference does not disclose a groove.

The reference discloses a shelf **14b**. The Examiner takes Official Notice that it was well known that groove is the structural equivalent of a shelf for the purpose of fixing the edge of the disc. It would have been well known in the art to use a groove in the Nakamura et al reference for the purpose of fixing the edge of the disc.

Response to Arguments

Applicant's arguments filed 3 July 2002 have been fully considered but they are not persuasive.

It is not clear what structural limitations are being added by the new limitations. The Examiner agrees with the Applicant's characterizations of air flow and sound generation, but at any instant in time the device of Toki does generate an air flow, even if over time there is no net air flow. Further, without pointing to any defining structural limitations, Applicant seems to be trying to distinguish over the prior art with an intended use limitation.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter M Medley whose telephone number is 703-305-0494. The examiner can normally be reached on Monday-Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on 703-308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3432 for regular communications and 703-305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


NESTOR RAMIREZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

PM
October 4, 2002